

TELEPHONE COMPANY PROPERTY TAX

A. INTRODUCTION

In general, property taxes are assessed and collected at the local level. However, the telephone company property tax is a state levy on the real and tangible personal property used in providing telecommunications. The tax is designed to approximate the local property tax that would be levied on telephone property if telephone property were subject to local property tax. Telephone property is assessed by the Wisconsin Department of Revenue and is taxed at the prior year's net property tax rate of the taxing jurisdiction in which the telephone property is located. Telephone company property taxes are deposited in the state General Fund.

B. HISTORY OF TELEPHONE COMPANY TAXATION

The state first taxed telephone companies by requiring an annual license fee, calculated as 1% of gross revenues, in 1883. Beginning in 1905, telephone companies were required to report gross receipts separated into exchange (local) receipts and toll (long distance) receipts. The municipality in which each exchange was located received 85% of the tax on the exchange revenue generated by that exchange, and the state retained the remaining 15% of the tax on exchange revenue and 100% of the taxes on toll revenue as general purpose revenue.

Beginning in 1972, instead of returning 85% of taxes on exchange revenues to the municipality in which the exchange was located, these funds were deposited in the "Tax Sharing Account" and distributed among local jurisdictions by a formula based on population and the total value of property in each local jurisdiction. The percentage of taxes on exchange revenues deposited in the "Tax Sharing Account" was reduced to 77.5% in 1975 and to zero in 1978. Since 1978, all telephone taxes have been deposited into the state General Fund.

Telephone companies continued to be taxed on their gross revenues until 1998, when they began a transition to the current tax on their real and tangible personal property. The transition was motivated by several factors, including technological and regulatory changes that had been transforming the industry for at least two decades and, specific to Wisconsin, the 1990 judgment against the state in *GTE Sprint (n.k.a. U.S. Sprint Communications Company) v. Wisconsin Bell*. Under *GTE Sprint*, the state was obligated to refund millions of dollars of sales taxes on access charges. In settlement of the claims for refunds, the state agreed to change the way interexchange carriers (i.e., long distance companies) and resellers would be taxed; that is, interexchange carriers and resellers would be subject to a property tax instead of a tax on their gross revenues.

Interexchange carriers and resellers were scheduled to become subject to a state property tax beginning in 1997 while local exchange and cellular companies would continue to pay gross revenues taxes. However, recognizing that a dual system of telephone taxation would result in unequal treatment of telephone companies, the law was amended in 1995. Under the 1995 law, all telephone companies would become subject to property taxes in 1998, but local exchange and cellular companies would also pay transitional adjustment fees in 1998 and 1999. The transitional adjustment fees plus the telephone property taxes

paid by local exchange and cellular companies equaled the amount of gross revenues taxes the company would have paid under prior law. Thus, the transitional adjustment fee had the net fiscal effect of keeping local exchange and cellular companies on the gross revenues tax until 2000.

C. EXEMPTIONS

The telephone company property tax is designed to tax telephone company property as nearly as possible as locally taxed property so that telephone companies are neither advantaged nor disadvantaged compared with companies subject to local property taxes. Thus, the exemptions for locally assessed property apply also to telephone companies with two exceptions—computerized equipment and mixed-use buildings.

Computers, computerized equipment and software owned by companies subject to local property taxes are exempt from general property tax. However, for telephone companies, only computers, computerized equipment and software used for general business purposes, such as personnel and planning, are exempt from the telephone company property tax. Since a large proportion of telephone property is computerized, the computer exemption for telephone companies was limited to mitigate the tax reduction resulting from the law change. Since 2003, telephone companies' cash registers and fax machines, excluding fax machines that are also copiers, have also been exempt, matching the treatment of locally assessed property.

Also beginning in 2003, property that is used less than 50% in the operation of a telephone company is exempt from the telephone property tax. However, such property is subject to local property taxes. Property that is used more than 50% in the operation of a telephone company is subject to the telephone property tax and exempt from local property taxes. This "majority rules" approach applies primarily to real property and is more efficient than allocating the assessment of mixed-use property between the state and local assessment rolls. For example, under prior law, if two stories of a six-story building were used for telephone purposes and the remaining four stories leased to companies that do not provide telecommunications, the assessed value of the building was split between the state (1/3) and local (2/3) assessment rolls. Since 2003 the entirety of such a building has been subject to local property taxes and exempt from telephone property tax.

D. ADMINISTRATION

Telephone companies report the location, cost, age and other information regarding their taxable real and tangible personal property to the Department of Revenue each year by March 1, unless the filing due date has been extended for up to 30 days. The Department assesses the property at its market value as of January 1 of that year using the methods used to assess manufacturing property. On or before October 1, the Department notifies each telephone company of the assessed value of its taxable property, and on or before November 1, notifies each company of the amount of tax on its property.

Telephone taxes are paid in two installments; the first is an estimated payment and the second is the unpaid balance. On May 10 of the assessment year, payment of at least 50% of the prior year's tax or 40% of the tax for the current year is due. Payment of the balance of the tax is due on November 10.

Since 2005 the statewide market value of telephone company tangible personal property has been allocated to each municipality in which the telephone company has tangible personal property based on the original cost of the company's tangible personal property in

that municipality. Telephone companies report real property by municipality in which it is located.

Telephone property is taxed at the prior year's net property tax rate of the municipality to which the tangible personal property was allocated or in which the real property was reported. The telephone property tax is designed to be equivalent to the local property tax that would be levied if telephone property were locally assessed. Since the Department must notify telephone companies of the amount of tax due by November 1, and local property tax rates often are not determined until December, telephone property taxes are calculated using the prior year's net tax rate of the taxing jurisdiction to which the property is allocated or in which it is located.

A telephone company may appeal its assessment directly to the Dane County Circuit Court. In contrast, owners of locally assessed property appeal first to the local board of review before filing an appeal with the circuit court in the county in which the property is located.

E. OTHER STATES

States differ widely in their taxation of telephone companies—some states levy gross revenues taxes, others levy property taxes, and some do both. Among states that tax telephone company property, property is centrally assessed by the state in some and locally assessed in others.

Of Wisconsin's neighbors, Iowa and Michigan tax telephone company property most similar to Wisconsin. In Iowa, telephone company real property, most central office equipment, and outside lines are state assessed and taxed at 100% of market value. If over half of a long-distance company's revenues are subject to competition, the company's central office equipment is exempt from property tax. According to the Iowa Dept. of Revenue, this provision only affects long-distance companies.

Michigan taxes telephone company real and tangible personal property at the level of comparable locally assessed property and provides a nonrefundable credit for eligible broadband expenditures that may be applied against telephone property taxes. In addition, the (Michigan) Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority may assess an annual maintenance fee of 5¢ per linear foot on telecommunication providers that own telecommunication facilities in public rights-of-way within a metropolitan area.

In Illinois and Minnesota, telephone company real property is assessed and taxed locally (personal property is exempt). Illinois levies a state "telecommunications maintenance infrastructure fee" of 0.5% of telephone company gross revenues in addition to local taxes on real property.

F. STATISTICAL SECTION

Table 1 shows telephone company gross revenues license fees, transitional adjustment fees, and property taxes for FY1997-FY2006. The table shows that the transition from gross revenues license fees to the telephone company property tax has reduced the tax burden on telephone companies by nearly two-thirds.

TABLE 1
TELEPHONE GROSS REVENUES LICENSE FEES AND
PROPERTY TAXES, FY97-FY06
(\$ millions)

Fiscal Year	Type of Fee/Tax	Amount of Fee/Tax (\$)
FY97	Gross revenues license fees only	\$176.5
FY98	State property tax and transitional adjustment fees	158.5
FY99	State property tax and transitional adjustment fees	149.7
FY00	State property tax and transitional adjustment fees	114.7
FY01	State property tax only	80.4
FY02	State property tax only	86.6
FY03	State property tax plus \$8 million in audit recoveries	106.3
FY04	State property tax only	81.6
FY05	State property tax only	72.6
FY06	State property tax only	63.0

Nearly 250 companies are subject to telephone company property taxes. At one time each company provided a specific service, such as local exchange or long distance calling. However, telephone companies now offer to customers packages of services that include local and long distance service, cellular service, data services and Internet access. A company may provide all services in-house, it may create a subsidiary, or it may purchase services wholesale from another company and resell the services under its own brand name.

In addition, cable television and other non-telephone companies provide telephone services. Such companies' real and tangible personal property that is used to provide telephone services is subject to telephone company property taxes.

Total telephone company real and tangible personal property was valued at \$3.5 billion in 2006. Table 2 shows the distribution of that property among types of municipalities. Cities account for 55% of total telephone property value, towns for 32%, and villages for 13%. Real property is about 12.5% of total telephone company property value. Tangible personal property, the remaining 87.5% of telephone company property, consists of switching equipment, outside plant (e.g., poles, wires, conduits and cables), cellular and long-distance towers, and other items of personal property.

TABLE 2
DISTRIBUTION OF TELEPHONE PROPERTY
AMONG MUNICIPALITIES, 2006
(\$ millions)

	Towns (\$)	Villages (\$)	Cities (\$)	Total (\$)
Real Property	\$48.4	\$58.1	\$331.7	\$438.2
Tangible Personal Property	1,087.3	383.3	1,594.5	3,065.1
TOTAL	\$1,135.7	\$441.4	\$1,926.2	\$3,503.3

G. CURRENT ISSUES IN TELEPHONE COMPANY TAXATION

Mergers and consolidation in the telephone industry have made some equipment and facilities redundant. Disposals of redundant equipment have reduced the value of

telephone company property and property taxes.

The increases in residential and other real property values in recent years have benefited telephone companies to the extent they have reduced or mitigated increases in local property tax rates.

The federal Internet Tax Nondiscrimination Act prohibiting taxes on Internet access does not affect property taxes; it applies only to sales and gross receipts-type taxes.

The expected deployment of Voice over Internet Protocol (VoIP) over the next few years will not affect telephone property taxes directly. However, VoIP is more efficient than the current public switched telephone network. To the extent VoIP requires less equipment than currently, taxable telephone property value may decrease.